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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/915,049	07/25/2001	Andreas Dieberger	YOR9-2001-0385 (8728-520)	6021
46069	7590	09/22/2006	EXAMINER	
F. CHAU & ASSOCIATES, LLC 130 WOODBURY ROAD WOODBURY, NY 11797			VAN BRAMER, JOHN W	
			ART UNIT	PAPER NUMBER
			3622	
DATE MAILED: 09/22/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/915,049	DIEBERGER ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	John Van Bramer	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 June 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Amendment***

1. The amendment filed on June 29, 2006, cancelled no claims. No claims were added and claims 1, 8, 14, 20, and 21 were amended. Thus the currently pending claims remain Claims 1-21.

### ***Claim Rejections - 35 USC § 112***

2. The amendment filed on June 29, 2006 has failed to overcome the 35 U.S.C. 112 rejection raised in the office action dated March 23, 2006. A step for displaying content is still omitted from claims 1-13, 20, and 21. The claims states that a plurality (more than one) of rules for displaying content are retrieved. Then a rule trigger is determined. This rule trigger is based upon at least one rule of the rule set. Therefore, the rule trigger may be based upon one rule in the rule set. This trigger is then executed if and only if the underlying rule in the on which the trigger is based contains data regarding a spectator being present. Finally a fee is determined upon execution of the trigger. The main deficiency with the claims as currently presented is that the execution of a trigger rule does not inherently indicate that the content is displayed. Since a trigger can consist of a single rule, and the display of content is based upon a plurality of rules, it is obvious that display can be based upon more than one trigger. Therefore the execution of one trigger does not necessarily indicate that all rules have been satisfied and that the content will be displayed.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1 – 21 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted step is that claims 1, 14, and 20 indicate that the trigger rule specifies that at least one spectator be present. The only enabling feature in the specification for such a trigger is the use of RFID tags or ultrasonic proximity detectors. Since an ultra sonic proximity detector does not differentiate between proximate objects, the examiner understands this trigger to be supported in the specification with the use of RFID tags. However, the use of RFID tags requires that the spectators have the RFID tags provided to them. Therefore, a step of providing the RFID tags to all potential spectators is necessary in order to enable the claims.

***Claim Rejections - 35 USC § 101***

5. The amendment filed on June 29, 2006 has failed to correct the 35 U.S.C. 101 deficiencies detailed in the Office Action dated March 23, 2006. In Claims 1 and 20, the applicant is describing a method for displaying content. However, no content is ever provided during execution of the claimed steps. Therefore, no tangible result is ever provided. The examiner suggests positively

reciting the displaying of the claimed content in the body of the claim as the applicant has done in Claim 14.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1 – 9, and 13 - 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Cohen (U.S. Patent Number: 6,060,993).

Claim 1: Cohen discloses a method for displaying content on a display device:

- a. Retrieving a plurality of rules for the display of content, wherein the content is provided by a content provider. (Col 4, lines 37 – 46)
- b. Updating a plurality of device parameters. (Col 4, lines 14 – 26)
- c. Determining a rule trigger for triggering at least one rule of the ruleset according to the plurality of device parameters. (Col 4, lines 54 – 60; and Col 4, line 64 through Col 5, line 3)
- d. Executing a trigger rule for causing the display of the content on the display device, wherein the trigger rule specifies that at least one spectator be detected. (Col 4, lines 54 – 60; Col 4, line 64 through Col 5, line 3; and Col 5,

lines 10-24) (Cohen discloses that one of the parameters monitored is motor vehicle density which inherently indicates that at least one spectator is present)

- e. Determining a fee according to at least one device parameter upon executing the triggered rule for the display of content, wherein the content provider is charged a fee. (Col 5, lines 10 – 23)

Claim 2: Cohen discloses the method of claim 1, wherein at least one rule is defined by a content provider to dynamically control the display of the content according to the device parameters. (Col 5, lines 10 – 23)

Claim 3: Cohen discloses the method of claim 1, wherein the step of executing a rule further comprises the step of receiving a rule trigger from one of a location handler and a signal handler. (Col 4, lines 54 – 60)

Claim 4: Cohen discloses the method of claim 3, wherein the step of receiving a rule trigger from the location handler further comprises the step of updating a positional parameter. (Col 4, lines 54 – 60)

Claim 5: Cohen discloses the method of claim 3, wherein the step of receiving a rule trigger from the signal handler further comprises the steps of:

- a. Interpreting an input signal (Col 5, lines 15 – 26)

- b. Generating a programmatic event flag (Col 4, lines 54 – 60)

Claim 6: Cohen discloses the method of claim 5, wherein the step of generating a programmatic event flag further comprises the step of generating one of a reply signal and the rule trigger. (Col 4, lines 54 – 60)

Claim 7: Cohen discloses the method of claim 1, further comprising the step of providing an overriding rule blocking the display of content corresponding to the rule and the determination of the fee, wherein the overriding rule is defined by the device owner. (Col 5, lines 10 – 23)

Claim 8: Cohen discloses the method of claim 1, wherein the step of determining a fee further comprises the steps of:

- a. Determining a value for each of the device parameters (Col 1, lines 22 – 45; and Col 5, lines 10 – 23)
- b. Determining at least one device parameter satisfying the triggered rule (Col 1, lines 22 – 45; and Col 5, lines 10 – 23)
- c. Determining the fee according to value of the device parameters satisfying the triggered rule. (Col 1, lines 22 – 45; and Col 5, lines 10 – 23)

Claim 9: Cohen discloses the method of claim 8, further comprising the step of charging the fee to a client providing content to be displayed. (Col 5, lines 10 – 23)

Claim 13: Cohen discloses the method of claim 1, wherein the fee is charged to a user for the use of the display. (the user is the advertiser using the service) (Col 5, lines 10 – 23)

Claim 14: Cohen discloses a method for displaying content on a mobile display device:

- a. Retrieving a plurality of rules stored in the mobile display device from a rule server. (Col 4, lines 37 – 46)
- b. Determining a value for each of a plurality of device parameters. (Col 1, lines 22 – 45; and Col 5, lines 10 – 23)
- c. Determining a rule trigger calling at least one rule. (Col 4, line 54 through Col 5, line 3)
- d. Determining whether each rule is satisfied by the device parameters. (Col 4, line 54 through Col 5, line 3)
- e. Displaying content corresponding to each satisfied rule, wherein a first satisfied rule specifies that a spectator be detected and a second satisfied rule specifies a demographic of the spectator. (Col 4, line 54 through Col 5, line 3; and Col 5, lines 10-24)
- f. Determining a monetary charge based on the device parameters satisfying each rule. (Col 2, lines 22 – 45; and Col 5, lines 10 – 23)



Claim 15: Cohen discloses the method of claim 14, wherein at least one rule is defined by a content provider to dynamically control the display of the content according to the device parameters. (Col 5, lines 10 – 23)

Claim 16: Cohen discloses the method of claim 14, further comprising the step of receiving a rule trigger from one of a location handler and a signal handler. (Col 4, lines 54 – 60)

Claim 17: Cohen discloses the method of claim 16, wherein the step of receiving a rule trigger from the location handler further comprises the step of updating a positional parameter. (Col 4, lines 54 – 60)

Claim 18: Cohen discloses the method of claim 16, wherein the step of receiving a rule trigger from the signal handler further comprises the steps of:

- a. Interpreting an input signal. (Col 4, lines 15 – 26)
- b. Generating a programmatic event flag. (Col 4, lines 54 – 60)

Claim 19: Cohen discloses the method of claim 18, wherein the step of generating a programmatic event flag further comprises the step of generating one of a reply signal and the rule trigger. (Col 4, lines 54 – 60)

Claim 20: Cohen discloses a program storage device readable by machine, tangibly

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embodying a program of instructions executable by the machine to perform method steps for displaying content on a display device, the method steps comprising:

- a. Retrieving a plurality of rules for the display of content. Wherein the content is provided by a content provider. (Col 4, lines 37 – 46)
- b. Updating a plurality of device parameters. (Col 4, lines 14 - 26)
- c. Determining a rule trigger for triggering at least one rule of the ruleset according to the plurality of device parameters. (Col 4, line 54 through Col 5, line 3)
- d. Executing a trigger rule for causing the display of the content on the display device, wherein the triggered rule specifies that at least one spectator be detected, wherein the spectator is detected by a radio-frequency receiver which detects the radio-frequency identification tag of the spectator. (Col 4, line 54 through Col 5, line 3; and Col 5, lines 10-24)
- e. Determining a fee according to at least one device parameter upon executing a rule for the display of content, wherein the content provider is charged the fee. (Col 5, lines 10 – 23)

Claim 21: Cohen discloses the program storage device of claim 18, wherein the method step of determining a fee further comprises the steps of:

- a. Determining a value for each of the device parameters. (Col 1, lines 22 – 45; and Col 5 lines 10 – 23)

- b. Determining at least one device parameter satisfying the triggered rule. (Col 1, lines 22 – 45; and Col 5 lines 10 – 23)
- c. Determining the fee according to value of the device parameters satisfying the triggered rule. (Col 1, lines 22 – 45; and Col 5 lines 10 – 23)

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 10 – 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen (U.S. Patent Number: 6,060,993).

Claims 10 and 11: Cohen discloses the method of claim 8, further comprising the step of apportioning fees. However, Cohen is silent with regard to various permutations in which fee apportionment might entail. The teachings of Cohen describe the display system itself and not who owns and operates the display system. It would have been obvious to one of ordinary skill in the art at the time of the invention that the service provider (entity that runs, operates and/or owns the display device) would need to reimburse the third party carrier (i.e. taxi company, trucking company, etc) for allowing them to put the display on the

carrier's physical property (i.e. taxi cabs, trucks, buses, etc.). One would have been motivated to institute such a reimbursement in order to provide the third party carrier with an incentive to install the display to help in the defrayment of operating costs.

Claim 12: Cohen discloses the method of claim 8, further comprising the step of apportioning the fees. However, Cohen is silent with regard to various permutations in which fee apportionment might entail. The teachings of Cohen describe the display system itself and not who owns and operates the display system. It would have been obvious to one of ordinary skill in the art at the time the invention was made that when the device is sold as a stand alone device, in which various third party carriers (i.e. Taxi companies, trucking companies, etc.) can purchase and install, a fee would need to be paid to the plurality of owners, by the service provider (entity that operates the advertisement distribution hardware), in order to be provided the opportunity to display advertisements on their mobile display unit. One would have been motivated to provide such a reimbursement in order to maximize the number of display units on which it can provide advertisements, and as a result maximize the fees it charges to entities wishing to advertise on the service.

### ***Response to Arguments***

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10. Applicant's arguments filed June 29, 2006 have been fully considered but they are not persuasive. The applicants arguments regarding the presence of a spectator have been traversed see rejection above.

***Conclusion***

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Van Bramer whose telephone number is (571) 272-8198. The examiner can normally be reached on 6am - 4pm Monday through Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*gls*  
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